

**OFFICE OF THE GENERAL COUNSEL  
Division of Operations-Management**

**MEMORANDUM OM 95-36**

**April 28, 1995**

**TO:** All Regional Directors, Officers-in-Charge,  
and Resident Officers

**FROM:** William G. Stack, Associate General Counsel

**SUBJECT:** Cases Currently Being Coordinated  
by the Division of Operations-Management

The following is an updated list of cases currently being coordinated by Operations-Management.

I. Greyhound Lines, Inc.

- A. The 8(a)(5) aspect of the complaint in Cases 30-CA-10681-2, et al., has been tried by Region 30; a settlement agreement has been approved by the administrative law judge and the Board. A petition has been filed with the bankruptcy court to release funds that are being held in trust for the satisfaction of backpay claims. That petition is still pending.

Consequently, pursuant to instructions, all open or closed cases (CA, CB, and R) still maintained in the Regional Offices involving Greyhound Lines, Inc.; the Amalgamated Transit Union (ATU); its Council; or any of its locals filed since January 1, 1990 should now have been shipped to Region 30, regardless of the stage of investigation.

- B. Region 30 is the lead Region in these cases. Any new charges should be faxed upon filing to Region 30, attention Acting Regional Director Bloedorn.
- C. Deputy Assistant General Counsel Cornele A. Overstreet is coordinating these cases.

II. United States Postal Service (3-CA-14483-1(P))

- A. On April 17, 1992, a settlement was reached between Region 3, the United States Postal Service (USPS), and the American Postal Workers Union, AFL-CIO, in the nationwide cases involving the Employee Involvement/Quality of Worklife Programs.

- B. Region 3 is the lead Region. Please refer to Memorandum OM 92-51 for the procedures to follow regarding the handling of these cases.

III. United States Postal Service (22-CA-17009(P) et al.)

- A. On August 3, 1993, settlements were reached between Region 22, the United States Postal Service (USPS), the American Postal Workers Union, AFL-CIO (APWU), the National Association of Letter Carriers, AFL-CIO (NALC) and the National Postal Mailhandlers Union, AFL-CIO (NPMU). The settlements, whose terms are identical except for the names of the unions, provide for the posting of notices in the facilities involved in the subject cases and the furnishing of the information at issue in those cases. They provide further that the USPS will no longer refuse to provide information regarding its supervisors which is necessary and relevant to the Unions' duties as collective-bargaining representatives, nor will the USPS refuse to provide such information on the grounds that it is barred from doing so by the Privacy Act of 1974.
- B. Region 22 is the lead Region. Please refer to Memorandum OM 93-56 for the procedures to follow regarding the handling of these cases.

IV. American Postal Workers Union

- A. Region 16 has issued a complaint in Case 16-CB-3059(P) alleging that the Union violated the Act by failing to inform employees that it had filed a grievance challenging the Employer's honoring of dues deduction revocations which allegedly were untimely filed; and by regarding employees who revoked their checkoffs as having resigned from the Union. Other related cases have been transferred to Region 16. The cases have been settled. The settlement provides for reimbursement of dues to over 2,400 members throughout the country. Checks are currently being issued to employees through Region 16. Questions from potential claimants should be referred directly to Region 16.
- B. Region 16 is the lead Region.

V. Beverly Enterprises

- A. Consolidated litigation against Beverly Enterprises, Inc., and its subsidiaries, alleging violations of Section 8(a)(1) and (3) of the Act continues.
- B. In light of the agreement between the General Counsel and Beverly, executed by the General Counsel on March 22, 1995, new merit cases will not automatically be consolidated. Region 6 remains the lead Region. Please refer to Memorandum OM 95-28 for procedures to follow.
- C. Assistant General Counsel Richard A. Siegel is coordinating these cases.

VI. Beck Cases Involving the Communications Workers of America and/or its Locals

- A. The lead Region is Region 20. Please refer to Memorandum OM 91-56 for the procedures to follow regarding the handling of these cases.
- B. Assistant General Counsel Eugene L. Rosenfeld is coordinating these cases.

VII. Beck Cases Involving the International Association of Machinists and/or its Locals

- A. The lead Region is Region 34. Please refer to Memorandum OM 91-26 for the procedures to follow regarding the handling of these cases.
- B. Assistant General Counsel Rosenfeld is coordinating these cases.

VIII. Beck Cases Involving the International Brotherhood of Electrical Workers and/or its Locals

- A. The lead Region is Region 11. Please refer to Memorandum OM 91-48 for the procedures to follow regarding the handling of these cases.
- B. Assistant General Counsel Rosenfeld is coordinating these cases.

IX. Beck Cases Involving the United Food and Commercial Workers and its Locals

- A. The lead Region is Region 16. Please refer to Memorandum OM 91-49 for the procedures to follow regarding the handling of these cases.
- B. Assistant General Counsel Rosenfeld is coordinating these cases.

X. Beck Cases Involving the United Auto Workers and/or its Locals

- A. The lead Region is Region 31. Please refer to Memorandum OM 91-73 for the procedures to follow regarding the handling of these cases.
- B. Assistant General Counsel Rosenfeld is coordinating these cases.

XI. "Salting" Cases

- A. Unfair labor practice charges have been filed in various Regions alleging Employer refusal to hire applicants who indicate on their applications that they are "paid" or "unpaid union organizers." See Memorandum 94-73 for guidance in investigating such "salting" cases.
- B. Deputy to the Assistant General Counsel Richard D. Hardick is coordinating these cases. While Regions are no longer required to submit dismissal cases to him for clearance, please continue to send copies of all "salting" charges and complaints to Richard Hardick. See Memorandum OM 95-2.

XII. International Union, United Mine Workers of America, Its Districts and Locals

- A. Unfair labor practice charges have been filed in various Regions raising allegations of Section 8(b)(1)(A) violence by the UMW International Union, its Districts and/or its locals.
- B. Assistant General Counsel Richard A. Siegel is coordinating these cases. Please refer to Memorandum OM 93-64 for the procedures to follow regarding the handling of these cases.

XIII. Pony Express Courier Corp.

- A. Unfair labor practice charges have been filed in various Regions against Pony Express. These charges have been filed by the International Brotherhood of Teamsters and its locals.
- B. Assistant General Counsel Richard A. Siegel is coordinating these cases. Please refer to OM 93-81 and OM 94-8 for the procedures to follow regarding the handling of these cases.

XIV. Caterpillar, Inc.

- A. Over 60 complaints have issued, 36 of which have been consolidated and are currently being heard before ALJ James Rose. Caterpillar, Inc., Cases 33-CA-9876-3, et al. Unfair labor practice charges are continuing to be filed by the UAW in various Regions.
- B. Region 33 is the lead Region.
- C. Assistant General Counsel Eugene L. Rosenfeld is coordinating these cases. When a new charge is filed, please contact Region 33 to make arrangements to have the case transferred. However, the Region receiving the charge should complete the investigation and then send the file to Peoria for decision and further processing.

XV. United Parcel Service

- A. In recent cases United Parcel Service (UPS) has begun to take the position that its operations are under the jurisdiction of the Railway Labor Act administered by the National Mediation Board (NMB) and not under the National Labor Relations Act. In cases which go to administrative hearing UPS will attempt to litigate the jurisdictional issue. The Board has remanded to the administrative law judge for a supplemental hearing and recommended order a Region 8 case in which UPS initially admitted jurisdiction and only after a hearing before the ALJ on the merits raised the jurisdictional issue.
- B. In order to avoid duplicative litigation and because of the potential that the issue will be resolved in the pending case, Regional Directors have been advised not

to go to hearing in unfair labor practice cases involving UPS. Such cases should, however, be fully investigated and disposed of in routine fashion. Cases may be dismissed or withdrawal requests approved when justified on the merits; cases may be deferred under Collyer and Dubo and complaint may issue, if justified on the merits. Settlement efforts in those cases have not been successful because of the Employer's position on jurisdiction; however, settlement should be pursued. Prior to approving settlements, please consult with the Division of Operations-Management. Hearing dates should not be included in the complaint until the Board resolves the jurisdictional issue in the pending matter. You will be advised when that occurs. Regions should report on all representation cases and any unfair labor practice cases requiring immediate relief to Assistant General Counsel Richard A. Siegel, who is coordinating the UPS cases.

XVI. Overnite Transportation, Inc.

- A. Region 18, Minneapolis, is the lead Region for the national coordination of unfair labor practice cases involving Overnite Transportation, Inc. Regions should send Region 18 copies of "CA" charges filed against Overnite and copies of agenda minutes or FIRs prior to implementation. Assistant General Counsel Eugene L. Rosenfeld is coordinating the Overnite "C-Cases" in Washington. Please FAX copies of all charges upon filing to AGC Rosenfeld.
- B. AGC Siegel is coordinating Overnite "R-Cases." By memorandum dated on or about March 10, 1995, Regional Directors were asked to promptly serve petitions and notices of hearing, and fully explore the issues with the parties, seeking an election agreement or a narrowing of the issues for hearing. The parties are to be informed that hearings will be run on consecutive days until conclusion and that they will be expected to be available. Hearings will be scheduled within the General Counsel's guidelines and hearing officers are to ensure a complete record on all relevant issues, without overburdening the record. Time for filing briefs will be kept to the minimum consistent with the Rules and Regulations, the nature of the record and the issues presented. Decision-writing assignments will be made to ensure prompt completion of the draft and issuance to permit an election within the General Counsel's guidelines. By "ccmail" or FAX AGC Siegel

is to be advised of petitions as they are filed and of hearing dates, dates of stipulated election agreements when executed, and election dates. In addition, please communicate issues that the parties are taking to hearing when they become known. Also transmit copies of all decisions and orders and decisions and directions of elections together with a WORD disk or via "ccmail" when issued so that AGC Siegel can serve as a clearinghouse for the information.

XVII. Bridgestone/Firestone, Inc.

- A. Charges have been filed in a number of Regions as a result of the Bridgestone/Firestone-Rubber Workers negotiations. See Memorandum OM 94-90.
- B. Region 25 is currently coordinating these cases. Deputy Assistant General Counsel Anne Purcell is coordinating the Bridgestone/Firestone cases in Operations-Management.

XVIII. Saipan Hotel Corporation d/b/a Hafadai Beach Hotel

- A. Complaint issued concerning numerous discharges and 8(a)(1) misconduct during an initial organizing campaign. The discriminatees are Filipino nationals who require work papers in order to stay in the Marianas. The General Counsel on April 17, 1995 recommended to the Board that 10(j) be sought to protect the discriminatees from deportation and to immediately reinstate them to their former positions.
- B. This matter is being coordinated by Deputy General Counsel Mary Joyce Carlson and Assistant General Counsel Karatinos who are working with the Departments of the Interior and Labor to seek assistance in protecting the employees. We are also seeking budgetary assistance from Interior due to the high cost of maintaining enforcement activity in the Marianas.

XIX. ConAgra, Inc.

- A. All cases involving an administrative unit of ConAgra, Inc. known as ConAgra Red Meats should be handled in accordance with Memorandum OM 94-45. Region 27 is the lead Region. Region 17 has active cases involving ConAgra's Grand Island, Nebraska facility which are being coordinated with Operations-Management, Region 27 and the Contempt Branch.

- B. Assistant General Counsel Nicholas E. Karatinos is coordinating the Conagra Red Meats cases for Operations-Management.

XX. United States Postal Service (303 NLRB 463 (1991))

On June 30, 1992, the United States Court of Appeals for the District of Columbia Circuit issued its judgment enforcing the Board's nationwide order in the above matter requiring Respondent to cease and desist from refusing to permit APWU representatives to consult with employees prior to Weingarten interviews conducted by Postal Inspectors. Please see Memorandum OM 93-71 for the procedures to follow regarding any USPS post-judgment merit cases alleging a Weingarten or Climax Molybdenum issue.

If you have any questions regarding this memorandum, please contact your Assistant General Counsel.

W. G. S.

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